Written submission from Green Party Northern Ireland (ANI0303)

1. Introduction

This submission is on behalf of the Green Party Northern Ireland (GPNI). We welcome the opportunity to respond to the Women & Equalities Committee inquiry into abortion law in Northern Ireland. The Green Party has four key values: social justice, environmental sustainability, grassroots democracy and non-violence. We have two elected Members of the Legislative Assembly out of a possible 90 seats. It is our view that the needs of women and young girls, families and future generations need to be served by reproductive healthcare provision that is fit for purpose and is provided in Northern Ireland.

1.2 Green Party Policy on Reproductive Rights – Decriminalising Abortion. The Green Party in Northern Ireland is committed to ensuring reproductive justice for all, including women, trans men, non-binary and gender fluid people, and removing barriers to abortion access in Northern Ireland.

1.3 The Green Party NI supports the introduction of legislation which supersedes Sections 58 and 59 of the Offences Against the Person Act 1861, and has the effect of ensuring full decriminalisation of abortion in Northern Ireland.

1.4 The Green Party NI will support legislation to decriminalise all aspects of abortion healthcare, including: to save the life of the pregnant person, to preserve physical and mental health, in cases of sexual crime, where there is a diagnosis of a fatal foetal abnormality, for socio-economic reasons, and at the request of the pregnant person. Abortion should be governed by the same robust regulatory and ethical frameworks as all other medical procedures.

1.5 The Green Party NI shall promote elected representatives and candidates who support the decriminalisation of abortion in Northern Ireland. The Green Party NI supports the campaign for reproductive justice, and decriminalisation of abortion worldwide. [This motion supersedes motion 1.3 above] (AGM 2016)

1.6 Our change in policy reflects the change in our members’ views on abortion from supporting the extension of the 1967 Abortion Act to full decriminalisation. Current laws breach the rights of Northern Irish women; this is not a question of health or home affairs law but of human rights which are reserved to Westminster.

What are the views of the general public, women and medical and legal professionals in Northern Ireland about the law on abortion and whether it should be reformed? How have those views changed over time?
2.0 The Green Party NI was the first and the only pro-choice party in the Northern Ireland Assembly campaigning for an extension of the 1967 Abortion Act to Northern Ireland to ensure equal access to healthcare treatment. Our experience has been one of private support from other MLA’s but public contempt.

2.1 In March 2013 In a debate around the Criminal Justice Bill, One of our MLA’s Steven Agnew outlined the then Green Party’s position on abortion Mr Agnew: Like others have done, at the outset, I will outline my party’s position on the issue of abortion. For the Green Party, it is a matter of conscience for individual members. That is the position that we took. We had a vote on being a pro-life party. It did not receive the two thirds majority required. We took a vote on being a pro-choice party. It did not receive the full two thirds required. When we took a vote on allowing it as a matter of conscience, it received unanimous support. So, that is the Green Party’s position on abortion.

2.2 A member of the DUP Mr Jim Wells in the same debate stated Mr Wells: There are two groups of honest people in the Chamber this afternoon. There are those who support the amendment, and there is Mr Steven Agnew. Steven Agnew at least has had the principle and the honesty to stand up and say that he is pro-abortion on demand in Northern Ireland. That is why he has not had a particularly rough ride. I disagree fundamentally with everything that he believes on the subject, but at least he signed the petition of concern because he knew what it would help to deliver: abortion on demand in Northern Ireland. That is what he wants.

2.3 In the same debate Mr. Well’s stated Mr Wells: Correct. I have no doubt that, eventually, children will die in operating theatres on Great Victoria Street. Full responsibility for that will lie at the feet of Sinn Féin, Anna Lo and Steven Agnew.

2.4 In May 2016 Clare Bailey was elected as our second MLA to the Northern Ireland Assembly running as a feminist, pro-choice and LGBT inclusive candidate.

2.5 In November 2016 Clare Bailey MLA, submitted a 45,000 strong petition gathered by Amnesty International to the Northern Ireland Assembly calling for a change to Northern Ireland’s restrictive abortion laws. Speaking ahead of her appearance in the Assembly chamber, she said: “Northern Ireland’s abortion laws are in breach of minimum human rights standards; they have been found to be so by the courts. Everyone is well aware of this, and therefore it is a shameful indictment on the Assembly that I even have to bring this petition forward. Over 70% of people in Northern Ireland want to see abortion laws changed. Despite this overwhelming endorsement of change; when the issue was brought before the Assembly in February, just fifty-nine MLAs blocked even the most minimal of reforms.
2.6 In January 2017, Clare Bailey launched a consultation on safe access to healthcare services due to the harassment and intimidation of women trying to access both the Marie Stopes clinic and also the Family Planning Association. As an activist and escort for the Marie Stopes clinic, she witnessed first-hand the intimidation and harassment of women trying to access healthcare. “Women are so frightened by the actions of these protestors. They are regularly filmed, reported to police or received threats to have their images uploaded to social media. I have been assaulted, spat on, splashed with holy water and even had a client run into oncoming traffic to escape these people.

2.7 Before the fall of the Northern Ireland Assembly Clare was preparing a Private Members Bill on Safe Access to Healthcare Services. She carried out the first stage of a public consultation, with approximately 600 replies that overwhelmingly supported some form of buffer zone. See results below:
Safe access to healthcare services

- do not believe everyone in NI has safe access to healthcare services
- believe that everyone has the right to privacy and confidentiality when accessing healthcare
- believe it is unacceptable to photograph or film a patient as they enter a sexual and reproductive healthcare clinic
- think it is unacceptable to photograph or film a person entering a building within which a healthcare clinic is located, but with no indication which company or service the person may be visiting
- think it is unacceptable to photograph or film a staff member as they enter a sexual and reproductive healthcare clinic
- think it is unacceptable to tell the person photographed or filmed without consent that their images will be sent to local newspapers or TV stations

Q1 Do you think that everyone in Northern Ireland has safe access to healthcare?
2.8 In terms of views changing over time in 2013 only the Green Party NI supported abortion law reform. Since then in June 2018 Sinn Féin moved to a decriminalisation stance, The SDLP in May 2018 moved to freedom of conscience voting for elected representatives but still describes itself as a pro-choice party. The Ulster Unionist Party allow freedom of conscience voting as do the Alliance party. People Before Profit have been a pro-choice party since inception and TUV & DUP remain anti-choice. We in the Green party believe this reflects the changing of social attitudes in Northern Ireland and the influence of the Irish Referendum, as political parties in NI change their policies to reflect social attitudes, as opposed to leading on them.

2.9 In March 2017 Northern Ireland had another election which returned 90 MLA’s as opposed to previously 108 due to reduction in size legislation being passed. The Green Party with it’s clear pro-choice decriminalisation political campaigning retained it’s two seats; another clear demonstration in the changing of attitudes over time.

2.10 On 12th October 2017 Clare Bailey wrote to the Permanent Secretary of Health NI stating that The Public Prosecution Service has now stated clearly that they can see no risk of criminal prosecution for NHS employees in Northern Ireland who refer women to NHS hospitals and clinics in the rest of the UK for abortions. The Public Prosecution Service has also clarified that there is no offence in Northern Ireland criminal law of ‘advocating and promoting abortion’ as suggested possible in the current guidance from the Department of Health on the termination of pregnancy, published in 2016. Clare Bailey asked to be updated on the Department’s progress on revising the guidance to remove the above suggestion and further guidance to GP’s on the new pathways provided in England and Wales with regards to free abortions and ensuring a clear pathway for women accessing abortion from Northern Ireland in the rest of the UK.

2.11 On 30th November Clare received a reply from Alasdair MacInnes from the Department of Health stating “The Department is seeking legal advice and a substantive reply will issue in due course” With no substantive reply forthcoming Clare arranged a meeting with Mr McInnes who said he did not want the guidelines for healthcare professionals to be again subject to legal challenge.

2.12 When questioned on why the DHSSPS were not advertising the new central booking system for women to access free abortions in England he said “Why would the Department of Health advertise a service that is illegal in Northern Ireland?”

2.13 There has also been no provision for post abortion aftercare for Northern Ireland women traveling to England for abortions and to say that we have

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1 Since May 2001, FPA in Northern Ireland took the historic step of initiating legal action against DHSSPS. FPA asked the courts to advise DHSSPS that it was failing in its statutory duty to ensure that all women had equal access to reproductive healthcare services. In a landmark ruling on 13 June 2001, FPA won the right to the first judicial review of medical practices relating to abortion and the provision of abortion services in Northern Ireland.
found the Department of Health obstructive and unhelpful is an understatement.

2.14 Clare Bailey has had two pieces of research commissioned on (1) what the impact would be in Northern Ireland if Sections 58 and 59 of the 1861 Offences Against the Person Act were to be repealed. (2) Regulation and Commissioning of Healthcare Services in Northern Ireland should 58 & 59 be repealed. These research papers are available to the committee on request from Clare Bailey’s office.

2.15 The research has also been used as information by Professor Sally Sheldon in drafting new abortion law in the UK taking NI’s unique position into consideration.

What are the experiences of women in Northern Ireland who have been affected by the law on abortion?

3.0 Women who seek to access abortion within Northern Ireland by, for instance, buying medically-safe abortion pills online, are committing an offence that carries a sentence of up to life in jail.

3.1 One of Clare Bailey’s constituents in South Belfast Helen Crickard had her workshop raided by the PSNI on 8th March 2017 looking for abortion pills. Nothing was found and the case was subsequently dropped but under dubious circumstances.

3.2 As a clinic escort for Marie Stope clinic in Belfast from 2014-2016 Clare Bailey accompanied and escorted dozens of women in and out of the clinic. Marie Stopes opened it’s sexual health clinic in Northern Ireland in October 2012. Its services were accessed by hundreds of people annually.

3.3 There was always a protest outside the building during working hours. This consisted of 2-3 people standing directly outside the door and a table placed directly opposite the door containing a petition for people to sign. An additional 2-3 protesters stood behind the table. The front entrance to the building was generally “boxed in” by protesters. The clinic stated that this created an intimidating space for visitors. Large placards were also placed outside the entrance showing “offensive” images. The clinic and numerous individuals including Clare Bailey complained to Belfast City Council about the content of the placards and the obstruction created by the table. The City Council never acted or responded.

3.4 Marie Stopes continually reported that the protesters were “judging/assessing/making assumptions” about every person that enters the building (The building was shared with a number of other organisations, unrelated to Marie Stopes). If assessed as likely to be attending the clinic the protesters attempted to speak to that person and often attempt to prevent
their entry. Protesters often showed a plastic model resembling a ‘foetus’. Protesters also imparted “false information” and attempt to hand out leaflets containing “false information” and disturbing pictures.

3.5 Protesters often told visitors that they would be waiting for them to exit the building. The clinic reported that clients found this extremely threatening and intimidating. It states that generally, protester behaviour is much more aggressive when someone exits the building. Clients are often pursued along the street by a protester shouting at them and giving “false information”. They would persist even when told to go away.

3.6 At certain periods, for example, Christmas or Easter, large groups of protesters would assemble outside the clinic. This could be 50 to 100 people. It would be accompanied by speaking through a loud speaker, prayers or singing. Access to the building is very difficult. Police may also be present at or near the entrance. The clinic reported that once or twice a year protesters use chalk to draw anti-choice images and messages on the pavement directly outside the entrance and along the length of the building. The clinic has reported this to police and council on numerous occasions. On a daily basis, protesters would shake bottles of holy water on the pavement outside the building. Holy water has been placed on the handle of the front door.

3.7 The clinic has had an ongoing relationship with the PSNI since it opened on October 2012. The clinic has had numerous meetings to discuss the situation and how the protests could best be managed. The clinic stated that despite this, the situation is not resolved and that “every single woman accessing our services is harassed and stopped at the front door”. It reported that at least 100 phone calls have been made to the police to report incidents. Staff and volunteers had spent “hours and hours” providing the police with statements and with CCTV footage showing incidents of alleged harassment and intimidation. The police response “…varied with some being sympathetic and others much less so however in general no action is taken”.

3.8 The Marie Stopes Programme Director Ms Dawn Purvis won a conviction for harassment against a Pro-Life protester. Following this the PSNI provided a resource of 2 designated police officers at the front door during clinic hours. However, when the conviction was lost on Appeal, this resource was withdrawn immediately. Following this, the clinic had much less PSNI support.

3.9 There were two incidents of physical assault to members of staff that were reported to the police. In one case the protester was charged and restricted from an area around the clinic, however when the PSNI passed the information to the PPS the clinic states that it was “dropped”. The other case was investigated by the PSNI and the (male) protester was given a warning with the details placed on his record for 12 months. He was required to write a letter of apology to the staff member.

3.10 In September 2014 a team of 8 (3 of whom were members of the Green Party) volunteers started working at the clinic. This allowed the clinic to take
some control and offer choice to clients. At the point of booking all clients were offered an “escort” into the building. In general clients do not take up this offer, however, they are much more likely to request an escort on leaving. All volunteers were required to undertake an intense, certified training course, at the expense of the clinic.

3.11 Once the client escorts started operating, the protesters relentlessly targeted the volunteers. On five occasions protesters falsely claimed to have been assaulted by volunteers when escorting clients from the building. On each occasion the clinic provided CCTV evidence and the police have been fully satisfied that no assaults took place. One of the protesters was cautioned for wasting police time.

What are the responsibilities of the UK Government under its international obligations for taking action to reform abortion law in Northern Ireland? How should these be reconciled to the UK’s devolution settlement?

4.0 Northern Irish women are unable to access abortion within their own jurisdiction and those that do face life imprisonment. The law that criminalises Northern Irish women was passed by the UK Parliament in 1861 it is out of date and seriously damaging to many women and girls. This is not a constitutional issue but a simple repeal of legislation. Northern Ireland does not need a referendum like Ireland.

4.1 The repeal of section 58 and 59 of the Offences Against the Person Act to decriminalise abortion must remain a priority for the Westminster Government as outlined by United Nations CEDAW report on abortion law in Northern Ireland.

4.2 The Secretary of State for Northern Ireland in the absence of the Northern Ireland Assembly has done nothing to further abortion rights in Northern Ireland which goes against what the majority of Northern Ireland people want as demonstrated over and over again in research and opinion polls.

4.3 Devolution is irrelevant when Human Rights are breached. The current laws breach the rights of Northern Irish women this is not a question of health or home affairs law but of human rights which are reserved to Westminster.

6.0 Recommendations

The GPNI fully endorse CEDAW’s recommendations which state: urgent repeal of sections 58 and 59 of the Offences Against the Person Act 1861 to decriminalise access to and provision of abortion. Alongside this it recommended adoption of legislation which provided expanded grounds for access to abortion.

6.1 The Committee also recommended an interim cease on application of the criminal law to women and healthcare professionals; evidence based
protocols for healthcare professionals providing legal abortions; mechanisms to monitor authorities’ compliance with rights concerning sexual and reproductive health; and enhanced data collection around self-induced abortions between DHS and PSNI.

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